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25 BAUER'S LIMOUSINE SERVICE, INC.
26 and GARY BAUER

27 UNITED STATES DISTRICT COURT
28 NORTHERN DISTRICT OF CALIFORNIA

1 ROGER PORTER, MICHAEL KRAFT, and
2 BEN ROSS, on their own behalf and on behalf
3 of all others similarly situated,

4 Plaintiffs,

5 v.

6 BAUER'S LIMOUSINE SERVICE, INC., a
7 California corporation, and GARY BAUER, an
8 individual,

9 Defendants.

10 Case No. 3:10-CV-01074-JSW

11 **JOINT STIPULATION AND
12 [PROPOSED] ORDER RE: DISMISSAL
13 WITH PREJUDICE**

14 Complaint Filed: March 12, 2010
15 First Amended Complaint Filed: April 9, 2010
16 Second Amended Complaint Filed: August 24, 2010

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The Parties to the above-entitled action jointly submit this Stipulation and [Proposed] Order requesting dismissal with prejudice. The Parties reached a complete settlement of the named Plaintiffs' claims in the above-captioned matter.

As part of the informal discovery process leading up to the parties' settlement, Plaintiffs' were provided with, and reviewed, a document issued by the federal Department of Transportation ("DOT"), dated October 9, 2008, which document contained the results of a DOT inspection regarding Bauer's (DOT# 1083917) compliance with federal hours of service regulations requiring the completion of a Record of Duty of Status ("RODS") form.¹ The driver of the vehicle in question was, at that time, engaged in performing "corporate" services, as that term is defined in Paragraph 11 of the Second Amended Complaint (Document No. 33) on file in this matter. Plaintiffs (through their undersigned counsel) and Bauer's agree that this DOT investigation demonstrates that, as of October 9, 2008, the DOT had the power to regulate Bauer's corporate drivers' hours of service within the meaning of 29 U.S.C. § 213(b) and Section 3(L)(1) of California Industrial Commission Wage Order 9-2001. Plaintiffs' counsel agree they have received the above-referenced document.

Thus, the Parties, through their undersigned counsel, respectfully request that the Court enter this Stipulation as an Order.

IT IS SO STIPULATED.

Each of the undersigned certify that the content of the foregoing document is acceptable to all persons required to sign the document and authorization to electronically sign this document has been obtained.

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¹ These documents were bates-stamped BAUERS000427-432.
STIPULATION AND [PROPOSED] ORDER
RE: DISMISSAL WITH PREJUDICE -2-

1 Dated: November ____, 2010

Respectfully submitted,

3 */s/ Benjamin K. Lunch*
4 WILLIAM J. FLYNN
5 BENJAMIN K. LUNCH
6 Attorneys for Plaintiff
7 ROGER PORTER

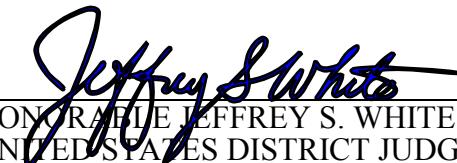
8 Dated: November , 2010

Respectfully submitted,

9 */s/ Joshua D. Kienitz*
10 ROBERT A. HULTENG
11 JOSHUA D. KIENITZ
12 RYAN E. ABERNETHY
13 LITTLER MENDELSON P.C.
14 Attorneys for Defendants
15 BAUER'S LIMOUSINE SERVICE, INC.
16 AND GARY BAUER

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IT IS HEREBY ORDERED THAT the, pursuant to the parties' Stipulation and
settlement, Plaintiffs' claims, as embodied in the Second Amended Complaint in this matter
(Document No. 33), are dismissed in their entirety, and with prejudice.

17 Dated: December 3, 2010


18 HONORABLE JEFFREY S. WHITE
19 UNITED STATES DISTRICT JUDGE

20 FIRMWIDE:98765742.1 053752.1006